



Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, JULY 2, 2008
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CRM
(202) 514-2007
TDD (202) 514-1888

OWNER OF MEDICAL EQUIPMENT COMPANY SENTENCED TO 130 MONTHS IN PRISON FOR HEALTH CARE FRAUD

WASHINGTON – A Miami resident was sentenced to 130 months in prison for his role in schemes to defraud the Medicare program, Acting Assistant Attorney General Matthew Friedrich of the Criminal Division and U.S. Attorney R. Alexander Acosta of the Southern District of Florida announced today.

Gustavo Smith, 43, was sentenced today in the U.S. District Court for the Southern District of Florida by Judge Marcia G. Cooke. In addition to the prison sentence, Judge Cooke ordered Smith to serve three years of supervised release following his release from prison, forfeit \$287,000 and pay \$1,988,969 in restitution to the U.S. Department of Health and Human Services.

At trial, the jury heard testimony that Smith was the owner of Medstar Services and Orthotics Fitters of Miami, two durable medical equipment (DME) companies that Smith used to submit more than \$4.6 million in fraudulent claims to the Medicare program. The items billed by Medstar Services and Orthotics Fitters to the Medicare program were primarily negative pressure pumps and related wound care supplies. Medicare beneficiaries whose names and Medicare numbers Smith used to bill for these items testified at trial that they had never heard of Smith or his companies and that they never needed or received the items being billed to Medicare by Medstar and Orthotics Fitters. Doctors whose provider numbers were used by Smith to bill the Medicare program also testified that they had never heard of Smith or his companies and that they had never prescribed the items being billed by Smith's companies.

Several of Smith's associates testified at trial that Smith would open companies in the names of nominee owners, who would be listed as owners in official corporate documents, bank accounts and in official Medicare documents. Once Medicare made payments on the fraudulent claims submitted by Smith's companies, Smith employed a money launderer to cash the proceeds of the fraud and transfer the cash to Smith. Witnesses also testified that Smith used the Medicare money to buy jewelry, purchase airline tickets for personal travel and make payments on his Mercedes-Benz.

In addition to the Medstar and Orthotics Fitters fraud, witnesses also testified about several other forms of health care fraud in which Smith engaged, including: brokering the purchase and sale of DME companies for the purpose of "burning Medicare," or submitting more than a million dollars in fraudulent claims within a window of two to three weeks; accepting

payments from approximately 180 DME companies in return for agreeing to be listed in official Medicare records as the DME companies' orthotics fitter, when in reality Smith performed no services for those companies; and owning an interest in two additional medical equipment companies that were committing Medicare fraud.

Following a six-day trial, Smith was convicted on April 23, 2008, of all counts contained in a seventeen count indictment, including conspiracy to defraud the United States, to commit health care fraud, and to cause the submission of false claims; seven counts of health care fraud; seven counts of false claims; one count of conspiracy to launder the proceeds of his crimes; and money laundering. Smith was allowed by the court to remain free on bond after his conviction, with the requirement that he be placed on home confinement with electronic monitoring. On June 14, 2008, Smith violated the terms of his release and fled the country. A warrant has been issued for his arrest.

The case was prosecuted by Trial Attorneys Hank Bond Walther and John K. Neal of the Criminal Division's Fraud Section in Washington, D.C., with the investigative assistance of the FBI and the Department of Health and Human Services, Office of Inspector General. The case was brought as part of the Medicare Fraud Strike Force, supervised by the Fraud Section of the Criminal Division and U.S. Attorney Acosta of the Southern District of Florida. From investigations opened during the period of Strike Force operations between March and October of 2007, federal prosecutors have indicted 82 cases with 142 defendants in South Florida. Collectively, these defendants billed the Medicare program for more than \$492 million.

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